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April 24, 2013

*Via Electronic Delivery and First-Class Mail*

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General Counsel  
Federal Communications Commission  
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Washington, D.C. 20554

Julie A. Veach  
Chief, Wireline Competition Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20054

Timothy Decker  
Co-Chair, North American Portability Management LLC  
c/o Verizon  
600 Hidden Ridge  
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Mel Clay  
Co-Chair, North American Portability Management LLC  
c/o AT&T  
675 W. Peachtree Street, Room 20P25  
Atlanta, Georgia 30375

Re: 2015 LNPA RFP

Dear Mr. Lev, Ms. Veach, Mr. Decker, and Mr. Clay:

I write on behalf of Neustar, Inc., to register our objection to the decision to extend the deadline for submission of responses to NAPM, LLC's 2015 LNPA RFP. Extending the deadline – after it had already passed – raises at least three principal concerns. First, Neustar

sees no legitimate, even-handed basis for an extension where the RFP requirements were well publicized far in advance and where an extension perversely favors bidders unable to meet the deadline. Second, the manner in which the extension decision was reached creates the appearance of impropriety and is inconsistent with the commitment of both the NAPM and the Commission to fairness and transparency in the RFP process. Third, announcement of an extension after Neustar submitted its bid raises the risk that aspects of its confidential bid have been disclosed to other bidders prior to the extended deadline, including potentially through inadvertent disclosure, which would seriously prejudice Neustar.

1. The extension of the RFP deadline is inexplicable in light of the more-than-ample notice that all parties had concerning the RFP requirements and the proposal-submission process to be followed. The Commission outlined the mechanism for designing the LNPA RFP process in March 2011 and detailed the procedures to be followed in May 2011. After the NAPM issued a Request for Information in October 2011, draft RFP documents were released in August 2012. The release of the documents was followed by a request for public comment, and extended consideration by the Commission before the documents were finalized (without significant changes) and released on February 5, 2013. Bidders were given 60 days to respond to the RFP and were provided both detailed proposal submission instructions and the opportunity to ask questions regarding RFP procedures and requirements.

Neustar met the April 5, 2013, bidding deadline; preparing the proposal did not impose any demands beyond those ordinarily encountered in responding to an RFP of comparable size and complexity. Given the critical role that NPAC administration plays in our telecommunications infrastructure and in promoting competition among communications service providers – and the level of technical expertise that NPAC administration demands – NAPM and the FCC should not entrust NPAC administration to any company unable even to meet the deadline for submission of a proposal. Extending the deadline after it had already passed unfairly favors the very bidder or bidders who lacked the wherewithal to comply with basic procedural requirements. Furthermore, the deadline extension increases the risk that bidders would have received some sort of feedback on their failed initial submission prior to the extended deadline – to the prejudice of Neustar and any other bidders who met the deadline. At a minimum, the industry and RFP respondents are owed an explanation for this extraordinary departure from the procedures established to govern the RFP process.

2. NAPM and the Commission have consistently emphasized the importance of establishing fair and transparent procedures for the submission of bids.<sup>1</sup> The decision to extend the deadline, however, was neither fair nor transparent. To the contrary, the decision gives rise

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<sup>1</sup> See, e.g., May 2011 Order ¶¶ 16, 17 (emphasizing importance of “transparent, concrete, and efficient LNPA Selection Process” and the need “to ensure that the process runs efficiently and is impartial to all potential vendors and all segments of the industry”).

to concerns about the ability of one or more bidders to obtain favorable action based on undisclosed communications with the NAPM or with regulators.

To the extent the deadline was extended at the direction of the Commission, the action raises additional concerns. The Commission is subject to the APA and its own procedural regulations. We are not aware of any legal basis for the Commission to direct a private party to take the type of action at issue here – which substantially affects the interest of all participants in the RFP process – without prior notice to interested parties, particularly when the RFP was allowed to go forward only after the opportunity for public comment. The issue is not whether the Commission has regulatory authority over the RFP process – we agree that it does. The Commission must nevertheless exercise that authority in a manner consistent with the APA and due process. Ordering the alteration of approved RFP procedures – without notice and without giving reasons – for the benefit of one or more potential bidders and to the detriment of bidders that complied with well-publicized deadlines and requirements is not consistent with lawful procedures. The Commission and NAPM should explain the circumstances giving rise to this decision and the Commission's role in it.

3. Because Neustar submitted its complete proposal, as required, by April 5, the extension of the deadline on April 17, 2013 – 12 days later – raises significant concern about the disclosure of the terms of Neustar's bid. The RFP process is confidential, and the disclosure of any aspect of Neustar's proposal (by anyone other than Neustar) during the period between the two submission dates would violate the terms of the RFP and give rise to potentially serious harm to Neustar and to any other bidders that submitted proposals in compliance with the original submission requirements. Indeed, in the context of federal government contracting, the Procurement Integrity Act makes disclosing or obtaining procurement-sensitive information – including information about a competitor's proposal – a federal crime, and can require the exclusion of the recipient from eligibility for the contract award.


By giving potential bidders 17 additional days to prepare their proposals after Neustar's proposal was submitted, the extension of the deadline greatly increases the risk that competitors may have become aware of sensitive aspects of Neustar's bid, including as a result of inadvertent disclosures, prior to the submission of proposals at the extended deadline. To guard against such disclosures, NAPM and the Commission should have ensured that only individuals subject to a clear duty not to disclose confidential information were given access to or permitted to review any aspect of the proposals that have been submitted. NAPM and the Commission should provide assurances that information concerning submitted proposals has not been compromised. In addition, the current NDA should be strengthened to protect against any potential future disclosures.

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Mr. Lev, Ms. Veach, Mr. Decker, Mr. Clay  
April 24, 2013  
Page 4

Neustar has supported the RFP process, and its proposal complied fully with the requirements established by NAPM and the Commission. Neustar's proposal was developed by a first-rate team of experts with unparalleled experience, and the proposal itself is likewise first rate. We have no concern about facing competition from any other potential bidder. But the recent developments must shake the confidence of those who are depending on NAPM and the Commission to run a process that ensures even-handed competition, not special accommodations for favored private interests.

Sincerely,

A handwritten signature in dark ink, appearing to read "Aaron M. Panner", with a long horizontal flourish extending to the right.

Aaron M. Panner

AMP/alh